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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/660,352 | 09/11/2003 | Lee A. Krywitsky | 10450.27.1 | 5123 |

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EXAMINER

NEUDER, WILLIAM P

ART UNIT PAPER NUMBER

3672

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,352

Applicant(s)

KRYWITSKY, LEE A.

Examiner

William P Neuder

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-23 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/24/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 1 and 9, line 2, both state “ a body at least partially implemented in the form of a wall”. This is not understood. What does applicant means by at least partially implemented in the form of a wall?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5,7-10, 12 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Burris et al (6752212).

Burris discloses a fluid system having a body 24 having a wall thickness. The body being in the form of a wall. A sacrificial element (26,50) is at least indirectly

attached to the body. The element cooperates with the body to define a fluid passage through the body. The sacrificial element being prone to failure in response to the occurrence of a predefined condition. As to claims 2 and 14, the body comprises a length of pipe or tubing. As to claim 3, the predefined condition is a pressure differential. As to claim 4, the sacrificial element 50 is in the form of a window having a thickness less than the wall thickness. As to claim 5, the element 50 ruptures when exposed to the predefined condition. As to claims 7 and 9, the sacrificial element is integral with the wall. As to claim 8, since the element is threaded into the wall, the element is considered to be both integral and discrete. As to claim 10, the element is metallic. As to claim 12, the element is a window of predetermined geometry.

Claims 1-5,7,9,12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen (3055424).

Allen discloses a fluid system having a body 24 having a wall thickness. The body is at least partially implemented in the form of a wall. A sacrificial element 30 is at least indirectly attached to the body and the body and sacrificial element defines a flow passage. The element being configured to fail in response to a predetermined condition. As to claims 2 and 14, the body comprises a length of pipe or tubing. As to claim 3, the predefined condition is a pressure differential. As to claim 4, the sacrificial element 50 is in the form of a window having a thickness less than the wall thickness. As to claim 5, the element 50 ruptures when exposed to the predefined condition. As to claims 7 and 9, the sacrificial element is integral with the wall. As to claim 10, the

element is metallic. As to claim 12, the element is a window of predetermined geometry.

Claims 1-5,7,9 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Streich et al (6095247).

Streich discloses a fluid system having a body 16 having a wall thickness. The body is at least partially implemented in the form of a wall. A sacrificial element 18 is at least indirectly attached to the body and the body and sacrificial element defines a flow passage. The element being configured to fail in response to a predetermined condition. As to claims 2 and 14, the body comprises a length of pipe or tubing. As to claim 3, the predefined condition is a pressure differential. As to claim 4, the sacrificial element 50 is in the form of a window having a thickness less than the wall thickness. As to claim 5, the element 18 ruptures when exposed to the predefined condition. As to claims 7 and 9, the sacrificial element is integral with the wall. As to claim 10, the element is metallic. As to claim 12, the element is a window of predetermined geometry. As to claim 13, multiple elements are provided.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burris et al in view of Hinrichs.

Hinrichs teaches forming grooves (58,62) in which the rupture disc is placed to aid in the disc blowing out. It would have been considered obvious to provide grooves in Burris as taught by Hinrichs for holding the disc to aid in blowing out the disc.

Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Streich et al in view of Hinrichs.

Hinrichs teaches forming grooves (58,62) in which the rupture disc is placed to aid in the disc blowing out. It would have been considered obvious to provide grooves in Streich as taught by Hinrichs for holding the disc to aid in blowing out the disc.

Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Hinrichs.

Hinrichs teaches forming grooves (58,62) in which the rupture disc is placed to aid in the disc blowing out. It would have been considered obvious to provide grooves in Allen as taught by Hinrichs for holding the disc to aid in blowing out the disc.

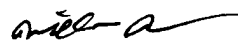
Allowable Subject Matter

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Claims 15-27 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P Neuder whose telephone number is 703-308-2150. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J Bagnell can be reached on 703-308-2151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William P Neuder
Primary Examiner
Art Unit 3672

W.P.N.